

■ §2.23 DELEGATION TO HEARING EXAMINERS.

(a) There is hereby delegated to hearing examiners the authority necessary to conduct hearings and make recommendations relative to the grant or denial of parole or reparole, revocation or reinstatement of parole or mandatory release, and conditions of parole. Any hearing may be conducted by a single examiner or by a panel of examiners. An Executive Hearing Examiner shall function as a hearing examiner for the purpose of obtaining a panel recommendation whenever the Regional Commissioner has not ordered that a hearing be conducted by a panel of two examiners.

(b) The concurrence of two examiners, or of a hearing examiner and the Executive Hearing Examiner, shall be required to obtain a panel recommendation to the Regional Commissioner. A panel recommendation is required in each case decided by a Regional Commissioner after the holding of a hearing.

(c) An examiner panel recommendation consists of two concurring examiner votes. In the event of divergent votes, the case shall be referred to another hearing examiner (or to the Executive Hearing Examiner in the case of a hearing conducted by a panel of examiners) for the another vote. If concurring votes do not result from such a referral, the case shall be referred to any available hearing examiner until a panel recommendation is obtained.

(d) A recommendation of a hearing examiner panel shall become an effective Commission decision only upon the Regional Commissioner's approval, and docketing.

Notes and Procedures

■ 2.23-01. *Documentation of Decisions and Decision Modification.*

(a) To facilitate a consistent national policy, examiners shall briefly indicate in the evaluation section of the hearing summary the factors pointing to placement of a decision at the bottom, middle, or top of the guidelines. This requirement is separate from the requirement that any recommendation outside the guidelines (either above or below) be explained with specificity on the Notice of Action Worksheet.

(b) This need for specificity is present at all levels of decision review (e.g., review of panel recommendation by the Regional Commissioner, or consideration of appeals by the National Appeals Board). Therefore, the Regional Commissioner, National Commissioners, and National Appeals Board, as applicable, shall record the specific factors in the case file indicating any modification of a panel recommendation or previous Commission action.